IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

THURSDAY, THE 9TH AUGUST 2007 / 18TH SRAVANA 1929

WP(C).No. 24228 of 2007(H)

AGAINST THE ORDER DATED 23/07/2007 IN IA. 913 /2007 IN OS.49/2004 of MUNSIFF'S COURT, PARAVUR

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PETITIONER:

SURESH GEORGE, VARIKKASSERIL HOUSE,
PIRAVOM KARA, .. DO... VILLAGE, MUVATTUPUZHA TALUK,
RESIDING AT LIG-703, PANAMPILLY NAGAR, KOCHI-36.

BY ADV. SRI.K.SURENDRA MOHAN

RESPONDENT:

JOSE ANTONY, CHIRAKKAL MANAVALAN,
AYROOR KARA, KUNNAKARA VILLAGE, PARAVUR TALUK.

BY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 09/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N.KRISHNAN, J.

WP(C)No. 24228 OF 2007 H

Dated this the 9th August, 2007.

JUDGMENT

This writ petition is filed seeking to set aside the order passed by the Munsiff, North Paravur in I.A.913/07 whereby an application for lifting the attachment was disposed of by merely closing it stating that no notice has been given and that the matter is included in the list. Ext.P1 plaint would show that the suit is one for realisation of an amount of Rs.75,565/- and in the application for attachment an immovable property was attached. The learned counsel for the writ petitioner had drawn my attention to Ext.P5 whereby the defendant has produced a fixed deposit receipt standing in his name for an amount of Rs.1,10,000/- which on maturity will give Rs.1,43,666/-. If this is accepted then there will be sufficient security for the plaintiff's case but the court has not considered the same. When a party wants to lift the attachment by filing an application for substitution of the security the court is bound to consider it and pass appropriate orders even if the suit is included in the list. Therefore, I set aside the order and direct the learned Munsiff to consider the interim application afresh in the light of the documents produced and pass appropriate

orders after hearing the other side as well. Mere objection raised by the plaintiff shall not be a ground for rejecting the substitution of the security if the court is convinced that it is sufficient. Writ petition is disposed of accordingly.

M.N.KRISHNAN
Judge

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